

**CONTINUATION PAGE 2 ORDINANCE 2010-___ AN ORDINANCE
REPEALING CHAPTER 42, ARTICLE IV, DIVISION 5 OF THE BERNALILLO
COUNTY CODE AND ENACTING A NEW DIVISION 5, REGULATING THE
RETAIL SALE OF FOOD TO PROTECT THE PUBLIC HEALTH AND SAFETY
OF THE RESIDENTS IN BERNALILLO COUNTY.**

1 must meet those identified in New Mexico state law in order to obtain a permit to
2 operate.

3
4 **State law reference: NMAC 7.8.2**

5
6 **Section 3. Amendments**

7
8 That the following provisions are hereby revised as follows:

9
10 Paragraph 8-811.10 Authorities, Methods, Fines, and Sentences changed to read:
11 (B) A person who violates a provision of this Code shall be guilty of a misdemeanor,
12 punishable by as provided in section 1-6.

13
14 Paragraph 8-813.10 Petitions, Penalties, and Continuing Violations is hereby stricken
15 from the code.

16
17 **Section 4.** Severability Clause. If any section, paragraph, sentence, clause, word or
18 phrase of this ordinance is for any reason held to be invalid or unenforceable by any court
19 of competent jurisdiction, such decision shall not affect the validity of the remaining
20 provisions of the ordinance. The Commission hereby declares that it would have passed
21 this ordinance and each division, section, paragraph, sentence, clause, word or phrase
22 thereof irrespective of any provision being declared unconstitutional or invalid.

23
24 **Section 5.** Effective Date. This ordinance shall take effect thirty days after final
25 adoption by the Bernalillo County Board of County Commissioners.

26
27 **DIVISION 5. FOOD SERVICE SANITATION***

28
29 ***Cross references:** Alcoholic beverages, § 14-61 et seq.

30 **State law references:** Food service sanitation, NMSA 1978, § 25-2-1 et seq.

31
32 **Sec. 42-307. Temporary food service establishments.**

33 A temporary food service establishment shall comply with all provisions of this
34 division which are applicable to its operation; provided, however, that the environmental
35 health authority may augment such requirements when needed to ensure the service of
36 safe food, may prohibit the sale of certain potentially hazardous food, and may modify
37 specific requirements for physical facilities when in his opinion no imminent health
38 hazard will result.

39 (Ord. No. 78-56, art. 5, § 7, 9-5-78)

40
41 **Display of Placard.**

**CONTINUATION PAGE 3 ORDINANCE 2010-___ AN ORDINANCE
REPEALING CHAPTER 42, ARTICLE IV, DIVISION 5 OF THE BERNALILLO
COUNTY CODE AND ENACTING A NEW DIVISION 5, REGULATING THE
RETAIL SALE OF FOOD TO PROTECT THE PUBLIC HEALTH AND SAFETY
OF THE RESIDENTS IN BERNALILLO COUNTY.**

Every food service establishment in the county shall display, in a place designated by the regulatory authority, a placard approved by the regulatory authority stating the grade of the food service establishment; provided, however, that temporary food service establishments shall not be subject to grading. Grades of food service establishments shall be as follows:

(1) *Approved*. Grade “Approved” means an establishment does not have continued critical or consecutive violations as documented on the most recent inspection report. Critical Violations that are documented as *corrected on site* on the most recent inspection will maintain “Approved” status unless the violation is identified on consecutive inspections.

(2) *Unsatisfactory*. Grade “Unsatisfactory” means an establishment continued to have the same violation on consecutive inspections or critical violations continued to exist in the establishment after the most recent inspection. A food service establishment that is downgraded to the “Unsatisfactory” grade may maintain operation for a period of time not to exceed 30-days. The permit holder or operator of any food service establishment, which has been downgraded, may at any time request an inspection for the purpose of regrading the food service establishment. Within five days following receipt of a request for reinspection, the regulatory authority shall conduct an inspection, and thereafter as many additional inspections as may be deemed necessary to ensure that the food service establishment operator is complying with the higher grade requirements. If the inspections indicate compliance, the food service establishment shall be awarded the “Approved” grade.

(3) *On Notice*. The “On Notice” designation is documented on the inspection report. A food service establishment shall be placed “On Notice” when critical violations are identified on the most recent inspection or when consecutive inspections result in identification of the same violation. An establishment may be downgraded to “Unsatisfactory” if a follow up inspection is conducted after an establishment is placed “On Notice” and the same violations continue to exist.

Sec. 42-311. Food service establishments outside jurisdiction of the environmental health authority.

Food from food service establishments or food-processing establishments outside the jurisdiction of the environmental health authority of the county may be sold within the county if such establishments conform to the provisions of this division or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the environmental health authority may accept reports from responsible authorities in other jurisdictions where such establishments are located; provided,

**CONTINUATION PAGE 4 ORDINANCE 2010-___ AN ORDINANCE
REPEALING CHAPTER 42, ARTICLE IV, DIVISION 5 OF THE BERNALILLO
COUNTY CODE AND ENACTING A NEW DIVISION 5, REGULATING THE
RETAIL SALE OF FOOD TO PROTECT THE PUBLIC HEALTH AND SAFETY
OF THE RESIDENTS IN BERNALILLO COUNTY.**

1 however, that the environmental health authority is authorized to make such inspections
2 as he may deem necessary to ensure himself of compliance with this division.
3 (Ord. No. 78-56, art. 5, § 10, 9-5-78)
4

5 **Sec. 42-314. Inspection fees.**

6 (a) Each food service establishment shall pay an annual inspection fee that shall be
7 established by resolution by the board of county commissioners. Such inspection fees
8 shall be payable not later than March 15 of each year.

9 (b) All temporary food service establishments shall pay a fee for each two-week period
10 of operation that shall be established by resolution by the board of county commissioners.
11 (Ord. No. 78-56, art. 5, § 13, 9-5-78; Ord. No. 85-45, art. 5, 10-1-85; Ord. No. 2005-12, §
12 1, 9-13-05)

**CONTINUATION PAGE 5 ORDINANCE 2010-___ AN ORDINANCE
REPEALING CHAPTER 42, ARTICLE IV, DIVISION 5 OF THE BERNALILLO
COUNTY CODE AND ENACTING A NEW DIVISION 5, REGULATING THE
RETAIL SALE OF FOOD TO PROTECT THE PUBLIC HEALTH AND SAFETY
OF THE RESIDENTS IN BERNALILLO COUNTY.**

1 BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF
2 BERNALILLO, NEW MEXICO THIS ___DAY OF _____, 2010.

3
4 BOARD OF COUNTY COMMISSONERS

5
6
7
8 _____
9 Art De La Cruz, Chair

10
11
12 _____
13 Maggie Hart Stebbins, Vice Chair

14
15
16 _____
17 Alan B. Armijo, Member

18
19
20 _____
21 Michael C. Wiener, Member

22
23
24 _____
25 Michael Brasher, Member

26 APPROVED AS TO FORM:

27
28
29 _____
30 County Legal

31
32 Date: _____
33

34
35 ATTEST:

36
37 _____
38 Maggie Toulouse Oliver, County Clerk

39
40
41 Date: _____